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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/470,344

Filing Date: December 22, 1999

Appellant(s): KERPELMAN ET AL.

MAILED

JUN 01 2007

GROUP 3600

Scott Woloson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 3/26/07 appealing from the Office action mailed 10/19/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,006,191

DIRIENZO

12-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

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2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 and 5-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 6,006,191 to DiRienzo.

As per claim 1, DiRienzo teaches a medical facility data communications system, the system comprising:

--the claimed internal data communications network is met by the use of digital communication links such as Ethernet (see: column 19, lines 35-42);
--the claimed plurality of clients coupled to the internal network and uniquely addressed on the internal network, the clients include a plurality of medical diagnostic imaging modalities configured to produce image data is met by the different clients such as the CHC (200, Fig. 3) connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49) this suggests that while using different networks such as the Intranet all addresses are unique. Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet

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include a plurality of computers or medical diagnostic imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed data communications control system coupled to the internal network.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claims 2-3, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

As per claim 5, DiRienzo teaches the claimed plurality of medical diagnostic imaging modalities are selected from a group including medical resonance imaging system, computed tomography systems, ultrasound systems, and x-ray systems (see: column 5, lines 13-25).

As per claims 6-8, DiRienzo teaches the claimed clients include a hospital information system, radiology department and picture archiving and communication system (see: column 19, lines 25-28).

As per claims 9-10, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed data communications control system configured to access data.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to access data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claims 11-12, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

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DiRienzo fails to explicitly teach the claimed use of the at least one mobile client connected to the internal network to access data.

It is well known in computer medical industry that using a portable computer allows a user access to the Internet. Therefore, it would have been obvious to one having ordinary skill in the art at the time invention was made to either use a portable computer or a hard wired computer within the data transmission as taught by DiRienzo with the motivation of allowing the user unlimited opportunities to access and retrieve information on the Internet, thereby facilitating the approach of gathering information through over a network in a less time consuming and efficient manner.

As per claim 13, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) data within the data transmission as taught by DiRienzo with the

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motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 14, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed exchanging client data and addressed data between the data communications control system and the remote service provider

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) to exchange data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 15, DiRienzo teaches the claimed external network interface includes an interface for at least two different data communications media (see: column 19, lines 25-49).

As per claim 16, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider

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(e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

As per claim 17, DiRienzo teaches a data communications system for a medical diagnostic facility, the system comprising:

--the claimed plurality of clients linked to an internal network, the clients including a plurality of medical diagnostic imaging modalities is met by the different clients such as the CHC (200, Fig. 3) connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet include a plurality of computers or medical diagnostic imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

DiRienzo fails to explicitly teach the claimed data communications control system linked to the internal network.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 18, DiRienzo teaches the claimed client data includes operational data for evaluating performance of the plurality of medical diagnostic imaging modalities. This limitation is met by the RAMIX system (100, Fig. 3), which receives, stores and downloads medical images requiring diagnostic readings and receives, stores and transmits reports regarding the diagnostic readings performed on the medical images (see: column 18, lines 37-42). Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet include a plurality of computers or medical diagnostic

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imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

As per claims 19-21, DiRienzo teaches a system wherein data transmission among one or more system clients (e.g. the Imaging center, the CHC, the physician at the diagnostic reading center, and gatekeeper) employs several different types of networks to interconnect the different system clients (see: column 19, lines 25-49).

DiRienzo fails to explicitly teach the claimed external network is a wide area network that includes the Internet.

However, at the time of the Applicants' invention, it would have been obvious to one of ordinary skill in the art to modify the system of DiRienzo to transfer data via a WAN link that includes the Internet. As suggested by DiRienzo, one would have been motivated to modify the system to accommodate the preferences of various system users and to ensure that the system operates efficiently with the available network resources and cost constraints of different users (see: column 19, lines 40-42).

As per claims 22-24, DiRienzo teaches the claimed clients include a hospital information system, radiology department and picture archiving and communication system (see: column 19, lines 25-28).

As per claims 25-26, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed data communication control system configured to access data.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to access data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 27-28, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed use of the at least one mobile client connected to the internal network to access data.

It is well known in computer medical industry that using a portable computer allows access the Internet. Therefore, it would have been obvious to one having ordinary skill in the art at the time invention was made to either use a portable computer or a hard wired computer within the data transmission as taught by DiRienzo with the motivation of assisting the users

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with accessing and retrieving information on the Internet, thereby facilitating the approach of gathering information through over a network in a less time consuming and efficient manner.

As per claim 29, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to access data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claims 30-31, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56).

In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to store and execute communications interface within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 32, DiRienzo teaches a communications system for a medical diagnostic facility, the system comprising:

--the claimed internal network is met by the use of digital communication links such as Ethernet (see: column 19, lines 35-42);

--the claimed plurality of clients configured for connection to the network for transmission of client data and plurality of medical diagnostic imaging modalities. This feature is met by the different clients such as the CHC (200, Fig. 3) connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's

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office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet include a plurality of computers or medical diagnostic imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

DiRienzo fails to explicitly teach the clients including a physically mobile client as well as the data communications control system being configured to automatically access client data including data indicative of a location of the mobile client and data communication control system coupled to the internal network.

It is well known in computer medical industry that using a portable computer allows access the Internet. Therefore, it would have been obvious to one having ordinary skill in the art at the time invention was made to either use a portable computer or a hard wired computer within the data transmission as taught by DiRienzo with the motivation of assisting the users with accessing and retrieving information on the Internet, thereby facilitating the approach of gathering information through over a network in a less time consuming and efficient manner. In addition, DiRienzo teaches the transmission of data between the medical diagnostic facility and

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the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to automatically access client data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 33, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56).

DiRienzo fails to teach the claimed control system is configured to detect the location of the mobile client upon connection of the mobile client to the network.

It is well known in computer medical industry that using a portable computer allows access the Internet. Therefore, it would have been obvious to one having ordinary skill in the art at the time invention was made to either use a portable computer or a hard wired computer including the location of the computer within the data transmission as taught by DiRienzo with the motivation of assisting the users in uniquely identifying specific addressing information, thereby providing a simpler and quicker way to access desired data over a network.

As per claim 34, DiRienzo teaches the claimed wherein the client data includes operational data for evaluating performance of the plurality of medical diagnostic imaging

modalities. This limitation is met by the RAMIX system (100, Fig. 3), which receives, stores and downloads medical images requiring diagnostic readings and receives, stores and transmits reports regarding the diagnostic readings performed on the medical images (see: column 18, lines 37-42). Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet include a plurality of computers or medical diagnostic imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

As per claims 35-37, DiRienzo teaches a system wherein data transmission among one or more system clients (e.g. the Imaging center, the CHC, the physician at the diagnostic reading center, and gatekeeper) employs several different types of networks to interconnect the different system clients (see: column 19, lines 25-49).

DiRienzo fails to explicitly teach the claimed external network is a wide area network that includes the Internet.

However, at the time of the Applicants' invention, it would have been obvious to one of ordinary skill in the art to modify the system of DiRienzo to transfer data via a WAN link that includes the Internet. As suggested by DiRienzo, one would have been motivated to modify the system to accommodate the preferences of various system users and to ensure that the system

operates efficiently with the available network resources and cost constraints of different users (see: column 19, lines 40-42).

As per claims 38-40, DiRienzo teaches the claimed clients include a hospital information system, radiology department and picture archiving and communication system (see: column 19, lines 25-28).

As per claims 41-42, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed data communication control system configured to access data.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to access data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 43, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider

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(e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claims 44-45, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed data communications control system configured to store and execute communications interface.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal

network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to store and execute communications interface within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 46, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56). In addition, DiRienzo teaches the RAMIX system (100, Fig. 3), which receives, stores and downloads medical images requiring diagnostic readings and receives, stores and transmits reports regarding the diagnostic readings performed on the medical images (see: column 18, lines 37-42). Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet include a plurality of computers or medical diagnostic imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to store and execute communications interface within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 47, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data

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communication control system) configured to store and execute communications interface within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 48, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to store and execute communications interface within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 49, DiRienzo teaches the claimed control system includes an operator interface, and wherein the request is generated via the operator interface (see: column 26, lines 45-56).

As per claim 50, DiRienzo teaches the claimed client data is transmitted to the control system in a transmission created by operator intervention at the client (see: column 26, lines 45-56).

As per claims 51-53, DiRienzo teaches the claimed transmission is created via an interface routine executed interactively by the control system and client, interface routine includes a web browser application and the step of storing client data for access by the control system (see: column 26, lines 45-56).

As per claim 54, DiRienzo teaches the claimed the step of logging communications between the clients and the control system. The features is met by the RAMIX system (100, Fig. 3), which receives, stores and downloads medical images requiring diagnostic readings and receives, stores and transmits reports regarding the diagnostic readings performed on the medical images (see: column 18, lines 37-42).

As per claim 55, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56).

Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet include a plurality of computers or medical diagnostic

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imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

DiRienzo fails to explicitly teach the claimed the clients including at least one physically mobile client and transmitting client data from the clients to a data communications control system, the client data including at least data indicative of a location of the at least one mobile client.

It is well known in computer medical industry that using a portable computer allows access the Internet. Therefore, it would have been obvious to one having ordinary skill in the art at the time invention was made to either use a portable computer or a hard wired computer within the data transmission as taught by DiRienzo with the motivation of assisting the users with accessing and retrieving information on the Internet, thereby facilitating the approach of gathering information through over a network in a less time consuming and efficient manner. In addition, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to automatically access client data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claims 56-57, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56).

DiRienzo fails to teach at least one mobile client is transmitted upon connection of the at least one mobile client to the network and the step of accessing client data representative of performance of the clients.

It is well known in computer medical industry that using a portable computer allows access the Internet. Therefore, it would have been obvious to one having ordinary skill in the art at the time invention was made to either use a portable computer or a hard wired computer including the location of the computer within the data transmission as taught by DiRienzo with the motivation of assisting the users in uniquely identifying specific addressing information, thereby providing a simpler and quicker way to access desired data over a network.

As per claim 58, this feature has addressed in the rejection of claim 29, and is incorporated herein.

As per claim 59, DiRienzo teaches the claimed step of transmitting at least a portion of the client data to a remote service provider via an external network. This feature is met by transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

As per claim 60, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

(10) Response to Argument

In the Appeal Brief filed 26 March 2006, Appellant makes the following arguments:

- (A) DiRienzo does not teach or suggest a plurality of medical diagnostic imaging modalities coupled on an internal network.
- (B) DiRienzo does not teach or suggest the recited data communication control system.
- (C) DiRienzo does not teach or suggest a DCCS configured to access data from networked clients in accordance with a predetermined data acquisition routine, where the data accessed includes operational parameters of the clients.
- (D) DiRienzo does not teach or suggest a DCCS element that includes an operator interface and is configured to access data from networked client in response to an operator request input via the operator interface.
- (E) DiRienzo does not teach or suggest that all data communications between selected clients and the remote service provider are routed through the data communication control system.

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(F) DiRienzo does not teach or suggest a DCCS configured to store and execute communications interface routine interactively with the clients, where the communications interface routines includes a web browser routine.

Examiner will address Appellant's arguments in sequence as they appear in the brief.

Response to Arguments (A)

In response to argument (A) The Examiner respectfully submits that DiRienzo teaches different clients such as the CHC (200, Fig. 3) connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49) this suggests that while using different networks such as the Intranet all addresses are unique. Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This clearly suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet include a plurality of computers or medical diagnostic imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images. Moreover, DiRienzo teaches there are many different modalities include X-Ray, EKG, EEG, MRI, CT, NM, PET, blood tests, microscope images, etc... and each of these modalities produces a characteristic "diagnostic medical image" (see: column 2, lines 8-17). This further demonstrates that each of the CHC's at a physician's office could be a medical diagnostic imaging modality connected to the Intranet (internal network).

Response to Arguments (B)

In response to argument (B) DiRienzo discloses a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site) and a remote data provider (e.g. CHC), using two or more (e.g. a first and second) communications media. The method allows one or more physicians at a diagnostic reading site (i.e. medical diagnostic facility) to connect to a network to review data (col. 26, lines 45-56). The physician(s) may also request data from the CHC (i.e. remote data provider) via a communications channel and have that requested data transmitted (i.e. forwarded/routed) to them via a communications channel (col. 28, lines 1-32, col. 36, lines 23-49). While DiRienzo does not expressly disclose the recited “providing a data control communications system (DCCS) linked to a network of the medical diagnostic facility,” the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote data provider) via a network requires the use of a network/communication interface (e.g. the recited DCCS), and thus obviates the step of providing a DCCS (i.e. communication interface) linked to a network of the medical diagnostic facility. Furthermore, at the time of the Applicant’s invention, it would have been obvious to one of ordinary skill in the art that data requests originating at the medical diagnostic facility and transmitted to the remote data provider would pass from the communication interface at the medical facility (e.g. the recited DCCS) to the remote data provider via a communications medium. One would have been motivated to include network/communication interface (e.g. the recited DCCS) in the data transmission process to facilitate reliable physician access to patient data to be reviewed.

Appellant again contends that the term DCCS is defined throughout the specification and that a communication interface cannot be the recited DCCS because an interface does not include

all of the components defined to be within the DCCS. However, the pages of the specification cited by the Appellant to provide “definitions” for the recited DCCS use non-committal language to describe the features that can be or may be included in the DCCS. For example, page 10, lines 10-15 of the Appellant’s specification specifically states that Figure 2 is an exemplary configuration for the recited DCCS.

The Appellant has failed to recite or claim features that distinguish the recited “DCCS” from any standard communication interface required for the transmission of data over communications media in the system of DiRienzo. For example, the Appellant’s specification, page 7, lines 23-27, describes the DCCS as a system component that “is coupled to a network for receiving or accessing data from the client, and for exchanging data with one or more remote service or data providers.” The specification goes on to explain that the DCCS is coupled to external communications circuitry.

One of ordinary skill in the art would have understood that these described functions are the functions of a standard network communication interface. Moreover, a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site) and a remote data provider (e.g. CHC) using two or more communications media, as disclosed by DiRienzo (Figure 3, col. 26, lines 51-67, col. 28, lines 1-32), obviates the presence of a communication interface (e.g. DCCS) linked to a network of the medical diagnostic facility. One of ordinary skill in the art would have understood that any data (i.e. requests) originating at the medical diagnostic facility and transmitted to the remote data provider in the system of DiRienzo would pass from a communication interface at the medical

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facility (e.g. the recited DCCS) to the remote data provider via a communications medium (e.g. external communications circuitry).

In the absence of a positive definition of the claimed DCCS as a component, which must perform certain functionalities, the Examiner has given the term the broadest reasonable interpretation, and has applied art accordingly.

Response to Arguments (C) and (D)

In response to arguments (C) and (D) The Examiner respectfully submits that DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56). Furthermore, each diagnostic reading site e.g. hospital or diagnostic physician office (400, Fig. 3) includes a computer (410, Fig. 3) with operating software capable of connecting the computer (410, Fig. 3) to the CHC (200, Fig. 3) via comm channels (see: column 26, lines 45-56). Moreover, DiRienzo teaches a RAMIX system (100, Fig. 3), which receives, stores and downloads medical images requiring diagnostic readings and receives, stores and transmits reports regarding the diagnostic readings performed on the medical images (see: column 18, lines 37-42). This clearly shows reports that indicate operational parameters that are the readings performed by the medical diagnostic imaging modality. The RAMIX also includes providing access to data from a network client such as the Imaging center, the CHC, the physician at the diagnostic reading center, and gatekeeper (see: column 19, lines 25-49).

Response to Arguments (E)

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In response to argument (E) The Examiner respectfully submits DiRienzo discloses a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site) and a remote data provider (e.g. CHC), using two or more (e.g. a first and second) communications media. The method allows one or more physicians at a diagnostic reading site (i.e. medical diagnostic facility) to connect to a network to review data (col. 26, lines 45-56). The physician(s) may also request data from the CHC (i.e. remote data provider) via a communications channel and have that requested data transmitted (i.e. forwarded/routed) to them via a communications channel (col. 28, lines 1-32, col. 36, lines 23-49). While DiRienzo does not expressly disclose the recited “providing a data control communications system (DCCS) linked to a network of the medical diagnostic facility,” the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote data provider) via a network requires the use of a network/communication interface (e.g. the recited DCCS). Moreover, if Applicant's were correct in his assertion that DiRienzo teach away from routing all of the data through one gateway which Examiner does not admit, it has been held that prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

Response to Arguments (F)

In response to argument (F) The Examiner respectfully submits DiRienzo teaches that each diagnostic reading site e.g. hospital or diagnostic physician office (400, Fig. 3) includes a computer (410, Fig. 3) with operating software capable of connecting the computer (410, Fig. 3) to the CHC (200, Fig. 3) via comm channels (see: column 26, lines 45-56). While DiRienzo does

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not expressly disclose the recited "providing a data control communications system (DCCS) linked to a network of the medical diagnostic facility," the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote data provider) via a network requires the use of a network communication interface (e.g. the recited DCCS), and thus obviates the step of providing a DCCS (i.e. communication interface) linked to a network of the medical diagnostic facility. Furthermore, the operating software suggests the use of a web browser to communication data between the medical diagnostic facility and the CHC (i.e. the remote data provider) via a network that requires the use of a network communication interface (e.g. the recited DCCS).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


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